

THIRTY-FIFTH DAY - FEBRUARY 28, 2005

LEGISLATIVE JOURNAL

NINETY-NINTH LEGISLATURE FIRST SESSION

THIRTY-FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, February 28, 2005

PRAYER

The prayer was offered by Pastor Aaron Pingel, Christ Lutheran Church, Falls City.

ROLL CALL

Pursuant to adjournment, the Legislature met at 10:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Bourne and Kremer who were excused; and Senators Engel, Hudkins, D. Pederson, and Raikes who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

Page 176, after line 20, insert "DiMartino, Thomas - Boiler Safety Code Advisory Board - Business and Labor".

The Journal for the fifth day was approved as corrected.

The Journal for the thirty-fourth day was approved.

SELECT COMMITTEE REPORTS Enrollment and Review

LEGISLATIVE BILL 570. Placed on Select File as amended.

E & R amendment to LB 570:

AM7027

- 1 1. In the Standing Committee amendment, AM0229:
- 2 a. On page 3, line 11, strike "shall", show as stricken,
- 3 and insert "does"; and in line 27 strike "include", show as
- 4 stricken, and insert "includes";
- 5 b. On page 4, line 2, strike "do" and insert "does";
- 6 c. On page 13, line 11, strike the comma; and in line 13
- 7 strike the last comma;

8 d. On page 23, line 13, strike "this code" and insert
 9 "the Uniform Commercial Code"; and
 10 e. On page 32, line 1, after "dealing" insert an
 11 underscored comma.
 12 2. On page 1, strike beginning with "2-202" in line 4
 13 through the semicolon in line 9 and insert "2-104, 2-202, 2-310,
 14 2-323, 2-401, 2-503, 2-505, 2-506, 2-509, 2-605, 2-705, 2A-103,
 15 2A-501, 2A-514, 2A-518, 2A-519, 2A-526, 2A-527, 2A-528, 3-103,
 16 4-104, 4-210, 4A-105, 4A-106, 4A-204, 5-103, 8-103, 9-102, 9-203,
 17 9-207, 9-208, 9-301, 9-310, 9-312, 9-313, 9-314, 9-317, 9-338, and
 18 9-601, Uniform Commercial Code; to adopt and eliminate provisions
 19 relating to general provisions and documents of title;" and in
 20 line 13 strike "and" and after the last comma insert "7-101 to
 21 7-105, 7-201 to 7-210, 7-301 to 7-309, 7-401 to 7-404, 7-501 to
 22 7-509, 7-601 to 7-603, and 10-104,".

LEGISLATIVE BILL 66. Placed on Select File as amended.
 E & R amendment to LB 66:
 AM7021

- 1 1. In the Standing Committee amendments, AM0296:
- 2 a. On page 1, line 9, strike "on" and insert "in";
- 3 b. On page 6, line 9, after "specifications" insert an
 4 underscored comma;
- 5 c. On page 9, line 12, after "and" insert an underscored
 6 comma; and after "possible" insert an underscored comma; and
- 7 d. On page 11, line 3, strike "or"; and in line 10 after
 8 "under" insert "sections 1 to 10 of".

LEGISLATIVE BILL 66A. Placed on Select File.

(Signed) Michael Flood, Chairperson

SENATOR JANSSEN PRESIDING

MOTION - Ombudsman Appointment

Senator Cudaback moved the reappointment, found on page 628, of Marshall Lux as Public Counsel (Ombudsman), and asks that the Legislature vote its approval as required by Section 81-8,241. A two-thirds vote is required.

The motion prevailed with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

SENATOR CUDABACK PRESIDING

GENERAL FILE

LEGISLATIVE BILL 298. Senator Landis renewed his pending

amendment, AM0250, printed separately and referred to on page 445 and considered on page 628.

Senator Beutler withdrew his pending amendments, FA57 and FA58, found on page 628.

Senator Beutler offered the following amendment to the Landis pending amendment:

AM0620

(Amendments to AM0250)

- 1 1. On page 1, line 8, strike "state" and insert
- 2 "Nebraska".
- 3 2. On page 2, line 22, strike "The" and insert ",
- 4 except that the"; and in line 24 after "holder" insert "unless it
- 5 is the owner of the real property".
- 6 3. On page 5, line 10, strike "9 and 10" and insert "10
- 7 and 11"; in line 11 strike "and"; and in line 13 after "act" insert
- 8 "; and
- 9 (7) Rights to enforce granted to any person".
- 10 4. On page 7, line 17, strike "and" and insert an
- 11 underscored comma; in line 19 after "covenant" insert "under
- 12 section 10 or 11 of this act and any subordination agreement"; and
- 13 after line 25 insert:
- 14 "(c) A copy of a document recorded under subsection (a)
- 15 of this section shall also be provided to the Department of
- 16 Environmental Quality if the department has not signed the
- 17 covenant".
- 18 5. On page 10, line 18, strike "the".
- 19 6. On page 11, after line 2 insert:
- 20 "(d) The Uniform Environmental Covenants Act does not
- 21 limit the right of any person to recover damages under any other
- 22 provision of law".

The Beutler amendment was adopted with 32 ayes, 0 nays, 11 present and not voting, and 6 excused and not voting.

The Landis amendment, AM0250, as amended, was adopted with 33 ayes, 0 nays, 10 present and not voting, and 6 excused and not voting.

Senator Beutler offered the following amendment:

FA70

On Page 10, line 18, reinstate the stricken "the"

The Beutler amendment was adopted with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 335. Title read. Considered.

Advanced to E & R for review with 34 ayes, 0 nays, 9 present and not voting, and 6 excused and not voting.

LEGISLATIVE RESOLUTION 8CA. Read. Considered.

Senator Chambers renewed his pending amendment, FA32, found on page 599.

Senator Chambers moved for a call of the house. The motion prevailed with 17 ayes, 5 nays, and 27 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 39:

Brashear	Cunningham	Janssen	McDonald	Schrock
Brown	Engel	Jensen	Mines	Smith
Burling	Erdman	Johnson	Pahls	Stuhr
Byars	Fischer	Kopplin	Pedersen, Dw.	Stuthman
Combs	Foley	Kruse	Pederson, D.	Synowiecki
Connealy	Friend	Landis	Price	Thompson
Cornett	Heidemann	Langemeier	Redfield	Wehrbein
Cudaback	Howard	Louden	Schimek	

Voting in the negative, 0.

Present and not voting, 4:

Aguilar	Baker	Chambers	Preister
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Excused and not voting, 6:

Beutler	Flood	Kremer
Bourne	Hudkins	Raikes

The Chambers amendment was adopted with 39 ayes, 0 nays, 4 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:
Reconsider the vote on FA32

Pending.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 70A. Introduced by Smith, 48.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 70, Ninety-ninth Legislature, First Session, 2005.

LEGISLATIVE BILL 249A. Introduced by Baker, 44.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 249, Ninety-ninth Legislature, First Session, 2005.

LEGISLATIVE BILL 689A. Introduced by Stuhr, 24.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 689, Ninety-ninth Legislature, First Session, 2005; and to declare an emergency.

AMENDMENT - Print in Journal

Senator Landis filed the following amendment to LB 66:
AM0606

(Amendments to AM0296)

- 1 1. On page 12, line 18, after the period insert "The
- 2 county assessor may appeal a final decision of the State Historic
- 3 Preservation Officer to the district court within thirty days after
- 4 mailing of the final decision by the State Historic Preservation
- 5 Officer.".

UNANIMOUS CONSENT - Add Cointroducer

Senator Fischer asked unanimous consent to have her name added as cointroducer to LB 664. No objections. So ordered.

VISITOR

The Doctor of the Day was Dr. Kyle Haeefe from Lincoln.

ADJOURNMENT

At 11:59 a.m., on a motion by Senator Byars, the Legislature adjourned until 9:00 a.m., Tuesday, March 1, 2005.

Patrick J. O'Donnell
Clerk of the Legislature